

Application No. 10/656,345
Amendment dated June 13, 2005
Reply to Office Action of April 6, 2005

REMARKS

Applicants have amended claims 1 and 15 to incorporate the limitation of original claim 13. In addition claim 10 has been amended to place it in independent form, and original claim 13 is canceled.

Claims 1, 2, 4, 5, 11, 12 and 15 stand rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-5, 7 and 9 of US Patent No. 6,638,312. Applicants transmit herewith a Terminal Disclaimer disclaiming the terminal part of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term of US Patent No. 6,638,312. Applicants believe the filing of this terminal disclaimer obviates the obviousness double patenting, and request the withdrawal of that rejection.

Claims 1-5, 7, 8, 11, 12, 14 and 15 stand provisionally rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1,2, 4-6 and 31 of co-pending application no.2002/0038151. Applicants note that US published application no. 2002/0038151 is no longer pending. In fact that published application has now issued as US Patent No. 6,638,312. Therefore, applicants respectfully submit that the filing of the Terminal Disclaimer disclaiming the terminal part of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term of US Patent No. 6,638,312 obviates the provisional obviousness double patenting rejection. Accordingly, applicants request the withdrawal of that rejection.

Claim 1 stands rejected under 35 USC 102(e) as being anticipated by Vacanti et al (US Patent No. 6,027,744; and claims 1-5 and 15 stand rejected under 35 USC 102(b) as being

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anticipated by Buige et al. (US Patent No. 5,693,085). To advance the prosecution of the present invention applicants have amended the claims to place the application in condition for allowance.

The Examiner stated that claims 10 and 13 were objected to as being dependent on a rejected base claim, but noted that they would be allowable if rewritten in independent form incorporating all the limitation of the base claim and any intervening claims. Original claim 13 depended from claim 1. Claim 1 has now been amended to incorporate all the limitations of original claim 13. Similarly, claim 15 is amended to incorporate the limitation of original claim 13. Finally, claim 10, originally dependent from claim 1, has been amended to place the claim in independent form incorporating all the limitations of original claim 1. In accordance with the Examiner's statement in his Office Action of April 6, 2005, these amendments are believed to place pending claims 1-5, 7-15 and 17 in condition for allowance.

Claims 6 and 16 were initially withdrawn as directed to non-elected species. Applicants note that claim 1 is generic relative to dependent claim 6, and claim 15 is generic relative to dependent claim 16. Accordingly, applicants respectfully request the reinstatement of claims 6 and 16. Furthermore, if agreeable by the Examiner, after reinstatement of claims 6 and 16 applicants request entry of an Examiner's amendment to correct a typographical error in claim 6. Please insert the word "the" between "dehydrated and" and "length" at line two of claim 6.

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Applicants believe that the present application is now in condition for allowance and such action is respectfully requested. If there are any questions or comments that would speed prosecution of this application, the Examiner is invited to call the undersigned at (434) 220-2866.

Respectfully submitted,



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